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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/872,899	06/02/2001	Scott A. Eden	01090	4623

7590 01/06/2004

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EXAMINER

A, PHI DIEU TRAN

ART UNIT	PAPER NUMBER
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3637

DATE MAILED: 01/06/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/872,899

Applicant(s)

EDEN, SCOTT A.

Examiner

Phi D A

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 October 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-39 is/are pending in the application.
- 4a) Of the above claim(s) 32-39 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-6 is/are allowed.
- 6) ☒ Claim(s) 7-16, 19-22 and 26-31 is/are rejected.
- 7) ☒ Claim(s) 17, 18 and 23-25 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
- a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 5.5.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 7-31 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The claims are confusing in scope. It is unclear from the claims whether the “structural support” is claimed. For example, claim 7 clearly claims a subcombination between the structural support and the device, however, the dependent claim 9 clearly claims the structural support member; independent claim 13 appears to claim a subcombination with the columnar structure, however, claim 15 appears to clearly claim the columnar structure as a combination with the apparatus. The claims are thus indefinite.

The claims are examined as best understood as claiming a combination between the device/apparatus and the structural support.

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 7, 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Padilla (5869159) in view of Morris (2943876).

Padilla shows a columnar covering device having a strap member (50), a skirt (16) sized and shaped for covering the columnar jack, the strap member (50) being sized and shaped for folding over and enclosing a portion of the skirt, the strap, the skirt being adjustable.

Padilla does not show an adjustable band for attaching the skirt to the strap member, the strap member enclosing the band member.

Morris shows a mechanically adjustable clamp/band for attaching a stiff skirt to a columnar support.

It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Padilla to show a mechanically adjustable clamp/band for attaching a stiff skirt to a columnar support because having a mechanically adjustable clamp/band for attaching the skirt to the column would further enhance the secured wrapping around of the skirt to the column as taught by Morris.

As modified, Padilla shows the band for attaching the skirt to the strap member and the strap member enclosing the band member.

3. Claims 8-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Padilla (5869159) in view of Morris (2943876) as applied to claim 7 above and further in view of Leat et al (3049195).

Padilla as modified shows all the claimed limitations except for a columnar jack for supporting the structural support member, the jack comprising a base plate, an incremental adjustable support mechanism and a support plate.

Leat et al shows a columnar jack (3, 4) comprising a base plate, an incremental adjustable support mechanism (3), a support plate (the part that is attached at top of 3) for supporting the structural support member to allow for vertical dimension adjustments.

It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Padilla's modified structure to show a columnar jack for supporting the structural support member, the jack comprising a base plate, an incremental adjustable support mechanism and a support plate because it would enable the easy adjustment of the structural support member height to compensate for different site elevations and desired heights as taught by Leat et al

4. Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Padilla (5869159) in view of Morris (2943876).

Padilla shows an apparatus for shielding a columnar structure supporting device comprising a first adjustable band (50), an adjustable shield member (16) for shielding the columnar structure supporting device.

Padilla does not show a second adjustable band member for coupling the first adjustable the band member with the adjustable shield member, the first adjustable band member for enclosing the second adjustable band member.

Morris shows a mechanically adjustable clamp/band for attaching a stiff skirt to a columnar support.

It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Padilla to show a mechanically adjustable clamp/band for attaching a stiff skirt to a columnar support because having a mechanically adjustable clamp/band for attaching

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the skirt to the column would further enhance the secured wrapping around of the skirt to the column as taught by Morris.

As modified, Padilla shows the second adjustable band member for coupling the first adjustable the band member with the adjustable shield member, the first adjustable band member for enclosing the second adjustable band member.

5. Claims 14-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Padilla (5869159) in view of Morris (2943876) as applied to claim 13 above and further in view of Leat et al (3049195).

Padilla as modified shows all the claimed limitations except for a columnar jack for supporting the structural support member, the jack is placed at end of the columnar structure and is shielded therein by the adjustable shield member.

Leat et al shows a columnar jack (3) for supporting the structural support member, the jack is placed at an end of the structural support to allow for vertical dimension adjustments.

It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Padilla's modified structure to show a columnar jack at an end of the structural member for supporting the structural support member because it would enable the easy adjustment of the structural support member height to compensate for different site elevations and desired heights as taught by Leat et al

Padilla as modified shows a columnar jack for supporting the structural support member, the jack is placed at end of the columnar structure and is shielded therein by the adjustable shield member.

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6. Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over Padilla (5869159) in view of Morris (2943876).

Padilla shows in combination an apparatus for shielding a columnar structure supporting device comprising a first adjustable band (50), an adjustable shield member (16) for shielding the columnar structure supporting device, a structural support (10).

Padilla does not show a second adjustable band member for coupling the first adjustable the band member with the adjustable shield member and with the structural support, the first adjustable band member for enclosing the second adjustable band member.

Morris shows a mechanically adjustable clamp/band for attaching a stiff skirt to a columnar support.

It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Padilla to show a mechanically adjustable clamp/band for attaching a stiff skirt to a columnar support because having a mechanically adjustable clamp/band for attaching the skirt to the column would further enhance the secured wrapping around of the skirt to the column as taught by Morris.

As modified, Padilla shows a second adjustable band member for coupling the first adjustable the band member with the adjustable shield member and with the structural support, the first adjustable band member for enclosing the second adjustable band member.

7. Claims 20-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Padilla (5869159) in view of Morris (2943876) as applied to claim 19 above and further in view of Leat et al (3049195).

Padilla as modified shows all the claimed limitations except for a columnar jack for supporting the structural support member, the jack is placed at end of the columnar structure and is shielded therein by the adjustable shield member.

Leat et al shows a columnar jack (3) for supporting the structural support member, the jack is placed at an end of the structural support to allow for vertical dimension adjustments.

It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Padilla's modified structure to show a columnar jack at an end of the structural member for supporting the structural support member because it would enable the easy adjustment of the structural support member height to compensate for different site elevations and desired heights as taught by Leat et al.

Padilla as modified shows a columnar jack for supporting the structural support member, the jack is placed at end of the columnar structure and is shielded therein by the adjustable shield member.

8. Claims 26-31 is rejected under 35 U.S.C. 103(a) as being unpatentable over Padilla (5869159) in view of Morris (2943876) and Leat et al (3049095).

Padilla shows a columnar jack concealing kit for columnar supports comprising an adjustable strap member(50), an adjustable shield member (16) for shielding the columnar structure supporting device, a structural support (10) being a post having opposing ends, the end being a top surface or a bottom surface, the adjustable strap being adjustable via adhesive attachment, the adjustable shield covering a portion of the end of the columnar support.

Padilla does not show a columnar jack having a base plate, an incremental adjustable support mechanism, and a support plate for supporting the columnar support, an adjustable

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clamp member for attaching the adjustable shield member with the adjustable strap member to the columnar support, the adjustable shield for concealing and shielding the columnar jack, the adjustable strap member for enclosing the adjustable clamp member, the jack is placed at end of the column and is concealed and shielded by the adjustable shield member.

Morris shows a mechanically adjustable clamp/band for attaching a stiff skirt to a columnar support.

Leat et al shows a columnar jack having a base plate (4), an incremental adjustable support mechanism (3), a support plate (the part attached to top of part 3) for supporting an end of the column to allow for easy height adjustments.

It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Padilla to show a mechanically adjustable clamp/band for attaching a stiff skirt to a columnar support, a columnar jack having a base plate, an incremental adjustable support mechanism, a support plate for supporting an end of the column to allow for easy height adjustments because having a mechanically adjustable clamp for attaching the skirt to the column would further enhance the secured wrapping around of the skirt to the column as taught by Morris, and having a jack supporting a column at an end would enable easy vertical height adjustment of the column at the site to compensate for different site elevations as taught by Leat et al.

As modified, Padilla shows a columnar jack having a base plate, an incremental adjustable support mechanism, and a support plate for supporting the columnar support, an adjustable clamp member for attaching the adjustable shield member with the adjustable strap member to the columnar support, the adjustable shield for concealing and shielding the columnar

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jack, the adjustable strap member for enclosing the adjustable clamp member, the jack is placed at end of the column and is concealed and shielded by the adjustable shield member.

Allowable Subject Matter

1. Claims 1-6 are allowed.
2. Claims 17-18, 23-25 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.
3. The following is a statement of reasons for the indication of allowable subject matter: prior art does not show the skirt/adjustable shield member being stiff in combination with other claimed limitations. Prior art also does not provide sufficient motivation to modify Padilla's skirt to show the skirt being stiff as it would go against the teaching of Padilla's invention.

Response to Arguments

4. Applicant's arguments with respect to claims 1-31 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The prior art shows different covering apparatus.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Phi D A whose telephone number is 703-306-9136. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on 703-308-2486. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9306 for regular communications and 703-872-9306 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.

A handwritten signature in black ink, appearing to be 'Phi Dieu Tran A', with a large, stylized loop at the end.

Phi Dieu Tran A
December 22, 2003